

TENTATIVE RULINGS for LAW and MOTION October 13, 2020

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted on Yolo Court's Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Ten (530) 406-6816
Telephone number for the clerk in Department Nine (530) 406-6819

NOTICE: Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court's Website at www.yolo.courts.ca.gov.

TENTATIVE RULING

Case: **Lamy v. Thai**
Case No. CV 2017-1712

Hearing Date: **October 13, 2020** **Department Ten** **9:00 a.m.**

Defendant Kevin Thai's request for judicial notice and supplemental request for judicial notice are **GRANTED**. (Evid. Code, § 452.)

Defendants River's Side, LLC, Eric Roe, Michael Schimmel, and Tommy Le's request for judicial notice is **GRANTED**. (Evid. Code, §§ 451, 452, 453.)

Defendant Kevin Thai's motion for good faith determination pursuant to Code of Civil Procedure section 877.6(a)(1) is **GRANTED IN PART**. The Court finds that the settlement was made in good faith. (Code Civ. Proc., § 877.6; *City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1261; Watson decl., ¶¶ 4-5, 10-11, Exhibit A.) However, the Court limits the preclusive effect of this order, barring all claims by any joint tortfeasor or co-obligor against defendant Kevin Thai for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault. (Code Civ. Proc., § 877.6, subd. (c); *Cal-Jones Properties v. Evans Pacific Corp.* (1989) 216 Cal.App.3d 324, 328.) A "good faith settlement order does not bar a non-settling tortfeasor from asserting an indemnification claim against the settling defendants based on an express contract." (*Interstate Fire & Casualty Ins. Co. v. Cleveland Wrecking Co.* (2010) 182 Cal.App.4th 23, 32.)

The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties immediately of the tentative ruling system.

If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Rutaganira v. Mitchell**
Case No. CV 2019-2712

Hearing Date: **October 13, 2020** **Department Ten** **9:00 a.m.**

Defendant Krista Mitchell’s motion to vacate plaintiff’s untimely request for dismissal is **DENIED**. (Code Civ. Proc., § 581; *Kyle v. Carmon* (1999) 71 Cal.App.4th 901, 909.) At the time that plaintiff Thomas F. Rutaganira filed his voluntary dismissal, there was no “public and formal indication” by the Court regarding the merits of plaintiff’s case, and plaintiff had not committed any “procedural dereliction” that rendered judgment against plaintiff “inevitable or a mere formality.” (*Gogri v. Jack in the Box Inc.* (2008) 166 Cal.App.4th 255, 267; *Franklin Capital Corp. v. Wilson* (2007) 148 Cal.App.4th 187, 200.) Rather, the Court issued a tentative ruling, on August 11, 2020, denying defendant’s motion for summary judgment. (*Gogri, supra*, 166 Cal.App.4th at p. 264; *Zapanta v. Universal Care, Inc.* (2003) 107 Cal.App.4th 1167, 1173-1174.) Therefore, plaintiff’s dismissal was timely.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Swift Financial v. Little**
Case No. CV 2020-1027

Hearing Date: **October 13, 2020** **Department Nine** **9:00 a.m.**

Petitioner Swift Financial, LLC’s unopposed petition to confirm the arbitration award is **GRANTED**. (Code Civ. Proc., § 1285, et seq.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.